

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7150

BILL NUMBER: HB 1278

DATE PREPARED: Jan 5, 2001

BILL AMENDED:

SUBJECT: Hypnotists.

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FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides for the state licensing of hypnotists instead of the state certification of hypnotists. The bill provides that a person who teaches hypnotism, as well as a person who practices hypnotism or trains others in self-hypnosis, must be a licensed hypnotist. The bill also changes the state education requirements for hypnotists. It increases the education prerequisite for licensing from 350 to 500 classroom hours of hypnotism education. The bill removes the prohibition against using or advocating spiritualism while engaged in the practice of hypnotism or advertising hypnotism services. The bill provides that an individual who practices hypnotism without a license commits a Class D felony. The bill provides for the issuance of an injunction against a person who violates the hypnotist statutes. It also repeals the definitions of "supervision" and "qualified supervisor". This bill amends an implementation provision allowing an individual to take the state hypnotist examination before July 1, 2005, even if the individual has not fully met the statutory education prerequisite. It provides that an individual who was certified as a hypnotist before May 15, 2001, shall be issued a hypnotist license without having to take another examination.

Effective Date: May 1, 2001 (retroactive); May 15, 2001.

Explanation of State Expenditures: The Health Professions Bureau could have some expenses associated with the implementation of this legislation, such as a revision of certification forms. These expenses can be absorbed within its current budget.

Penalty provision: The bill provides that an individual who practices hypnotism without a license or an exemption from being licensed commits a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for

medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: Given the current fee structure by the Medical Licensing Board (MLB), it is believed that any increases to revenue would be negligible within the first two years of implementation since the bill would allow hypnotists already certified before May 15, 2001, to be deemed as licensed after May 15, 2001. Additionally, the bill would allow applicants with fees that had been paid but not yet licensed after May 15, 2001, to apply those fees paid towards a new license application. Below is the current fee schedule for hypnotists according to 844 IAC 12-2-1.

Fee Type	Amount
Certification by examination, administration/issuance	\$30 and cost of examination
Application for certification to practice	\$30
Verification of certification to another state or jurisdiction	\$10
Renewal of a certificate to practice	\$20 per biennium
Reinstatement of an expired certificate to practice	\$10 and all past renewal fees

The total number of certified hypnotists or number of hypnotists seeking certification is currently not known. However, the following associations have recognized the following numbers of hypnotists/hypnotherapists practicing in Indiana.

Association	Number
American Association of Professional Hypnotists	7
Registry of American Hypnotists	2
National Board for Certified Clinical Hypnotherapists	5
Hypnodirect	2*
Hypnosis Center	2

*Indicates recognition of a practice, which may or may not include more than one practitioner.

All revenue collected from fees associated with hypnotist certification are currently deposited into the state General Fund.

The proposal may allow the Attorney General, the Hypnotist Committee, or a county prosecutor to enjoin a violator from practicing under the above penalty provision in the interim between the time of violation until the violator's case is tried in a criminal court. There would be costs associated with the filing of an injunction. The filing fee for a civil case is \$100.

Penalty provision: The bill provides that an individual who practices hypnotism without a license or an exemption from being licensed commits a Class D felony. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Indiana Health Professions Bureau; Indiana Hypnotist Committee; Indiana Medical Licensing Board; Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: American Association of Professional Hypnotists; Registry of American Hypnotists; National Board for Certified Clinical Hypnotherapists; Hypnodirect; Hypnosis Center; Indiana Sheriffs Association, Department of Correction.